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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,380	06/26/2001	Yuji Kamikawa	33082M088	9509
7590 01/05/2004 Smith, Gambrell & Russell, LLP Beveridge, DeGrandi, Weilacher & Young Intellectual Property Group 1850 M Street, N.W., Suite 800 Washington, DC 20036			EXAMINER PERRIN, JOSEPH L.	
			ART UNIT 1746	PAPER NUMBER

DATE MAILED: 01/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/888,380	<b>Applicant(s)</b> KAMIKAWA, YUJI	
	<b>Examiner</b> Joseph L. Perrin, Ph.D.	<b>Art Unit</b> 1746	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 and 32-39 is/are pending in the application.
- 4a) Of the above claim(s) 38 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13, 32-37 and 39 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
     a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) Paper No(s). <u>120403</u> . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                     |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Newly submitted claim 38 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:
2. Claim 38 reads on non-elected Group III, utilizing a means for moving, which as best understood from the original disclosure, is construed as the delivery port, lid and rotor disclosed in paragraph [0017] of the specification, not required by originally elected Group I. Moreover, claim 38 does not require the position adjusting mechanism of originally elected Group I. It is also noted that applicant's attempt to invoke 112, sixth paragraph is not proper since the written description only implicitly or inherently sets forth the structure, materials, or acts corresponding to a means- (or step-) plus-function (*i.e.* "means for changing the orientation..." & "means for moving..."). Since the claimed means-plus-function language is not clearly set forth in the original specification, applicant would be required to either (A) clarify the record by amending the written description such that it expressly recites what structure, materials, or acts perform the function recited in the claim element; or (B) state on the record what structure, materials, or acts perform the function recited in the means- (or step-) plus-function limitation, in order to comply with 112, second paragraph. See MPEP § 2181.
3. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for

prosecution on the merits. Accordingly, claim 38 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Response to Arguments***

1. In view of Applicant's amendment filed 07 October 2003, the status of the application is as follows:

#### ***Claims Objections***

The objections of claims 2,3, 4, 6, 8, 9, 11 and 12, are withdrawn in view of Applicant's amendment.

#### ***35 U.S.C. §102(b) Rejections over Honda***

The rejection of claims 1, 5-7, and 10-13 are withdrawn in view of Applicant's amendment.

#### ***Allowable Subject Matter***

4. The following is a statement of reasons for the indication of allowable subject matter:
5. The closest prior art of record, the "Honda" reference, fails to teach each and every limitation of the instant invention. Specifically, Honda fails to teach the claimed apparatus further including a posture changing mechanism located outside of the process chamber, as claimed in independent claims 1 & 2; the process chamber being

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a double wall structure with inner chamber movable between the process position within the outside chamber and the retreat position outside the outside chamber, which is disclosed as an essential element of claimed invention, as claimed in independent claims 4 & 9; or the claimed wafer rotating device having a spin plate, a pivot, and a motor combined with a posture changing mechanism including a leg portion connected to a disc holding member, the disc holding member being connected to a stationary disc, as claimed in independent claim 39.

6. For at least the foregoing reasons, independent claims 1, 2, 4, 9 and 39 are believed to recite patentable subject matter.

### ***Conclusion***

7. This application is in condition for allowance except for the following formal matters:

Cancellation of non-elected claim 38.

8. Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

9. A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is (703)305-0626. The examiner can normally be reached on M-F 7:30-5:00, except alternate Fridays.


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11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy P. Gulakowski can be reached on (703)308-4333. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9310.

12. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

Joseph L. Perrin, Ph.D.  
Examiner  
Art Unit 1746

jlj

  
FRANKIE L. STINSON  
PRIMARY EXAMINER  
GROUP 3400 17 00